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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/909,130	08/11/1997	JAMES E. COX	33019/138/10	1242

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

EXAMINER

DESANTO, MATTHEW F

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/909,130

Applicant(s)

COX ET AL.

Examiner

Matthew F. DeSanto

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4,5 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4,5 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 4, 10, 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Wolinsky et al. (USPN 5,087,244).

Wolinsky et al. discloses an elongated catheter, with a balloon and a perfusion lumen (ref #. 29 and the lumen connected to those holes) that extends through the balloon and decreases distally in cross section within the inflatable envelope portion (Figure 2 and entire reference). With regards to claims 10 and 12, since the guidewire lumen and catheter can move or bend when the catheter is being maneuvered through the arteries of the patient, the guidewire lumen can collapse.

3. Claims 4, 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Jang (USPN 4,744,366).

Jang discloses an elongated catheter, with a balloon and a perfusion lumen (ref #. 12) that extends through the balloon and decreases distally in cross section within the inflatable envelope portion (Figure 1, 9 and entire reference)..

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crocker (USPN 5,522,800), and further in view of Zeiher (USPN 5,061,267).

Crocker disclose an elongated catheter, with a balloon and a perfusion lumen and a guidewire lumen, as well as a metallic ribbon coil support and wherein the perfusion has a smaller cross section at its distal end then its proximal end (Figures 1-6 and entire reference), but fails to teach wherein the guidewire is collapsible during normal use.

Zeiher discloses a balloon catheter with a collapsible guidewire [ref 2] that is used to close when the guidewire would not be present and the balloon is inflated (column 2).

At the time of the invention it would have been obvious for one of ordinary skill in the art to combine the catheter of Crocker with the guidewire feature of Zeiher because it is well known in the art to use collapsible guidewires when performing medical

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procedures that involves dilation of an artery since the catheter will need to fit into small openings before dilation. Therefore if the guidewire lumen collapsed this would save space as shown and taught by Zeiher since this concept of minimizing space is taught in Crocker.

Response to Arguments


6. Applicant's arguments with respect to claims 4, 5, 10-12 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F. DeSanto whose telephone number is 571-272-4957. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick LUCCHESI can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.


Matthew DeSanto
Art Unit 3763
June 13, 2005


NICHOLAS D. LUCCHESI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700